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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/530,369	09/05/2000	Hiroshi Miyagi	A-356	6679

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EXAMINER	
D AGOSTA, STEPHEN M	

ART UNIT	PAPER NUMBER
2683	12

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/530,369	MIYAGI, HIROSHI	
	Examiner	Art Unit	
	Stephen M. D'Agosta	2683	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires *5* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☐ The proposed amendment(s) will not be entered because:

(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ they raise the issue of new matter (see Note below);

(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3.☐ Applicant's reply has overcome the following rejection(s): _____.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7.☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: *1-2, 4-7, 9-20*.

Claim(s) withdrawn from consideration: _____.

8.☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10.☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: 1) The applicant's arguments are not persuasive and the prior art continues to read on the claims. The applicant argues that the examiner is selectively picking/choosing separate items from Kim - the examiner disagrees since he is pointing out "concepts" that are used by Kim which are broadly interpreted and read on the claims, eg. a function provided by Kim's disclosure can be modified by one skilled in the art. Kim's measurement system can be wholly contained as taught by Cuffaro and Kanai who teaches a mobile phone with level/BER detector, which when combined teach a mobile an measurement device as one wholly contained device. 2) The applicant argues that the examiner too broadly interprets Kanai's controller to be a CPU. The examiner disagrees and aserts that controllers can be passive devices and/or highly active devices which require CPU's to control an apparatus. The examiner merely interprets the controller as a device more akin to a CPU (to read on the claim) rathe than taking the applicant's position that the controller cannot be (eg. under any circumstance) a device capable of more involved processing. Even if the applicant were right for arguments sake, one skilled can replace a passive controller with a CPU-based controller to reduce the loading on the main CPU. 3) The applicant argues that Lindenmeier does not teach a test device. The examiner disagrees since the title states that it is an inventino that "tests" the function of mobile receiving installations (also see figure 1, #10 which is a measurement device/recorder). 4) Regarding claim 6, the applicant argues that the applicant argues the motivation to combine. The examiner's motivation stems from the prior art used to arrive at the recited claim limitations - ie. Kims evaluation apparatus combined with Cuffaro's test device and Kanai's mobile phone with level/BER testing capability. 5) The applicant argues that the prior art does not teach predetermined display on the unit. The examiner disagrees since Cuffaro teaches a test system and Kanai teaches a mobile device that displays level/BER test data. Hence one skilled would adapt any/all relevant display screens to be displayed on the mobile device. The Cuffaro reference merely shows what a typical screen may look like, eg. there is nothing novel about displaying the test/measurement data on an LCD display whether it be a computer screen or mobile device (eg. web-enabled phones can surf and display Internet web sites which can be very elaborate.

6) Objectionable material: The examiner notes that while the independent claims are "narrow/lengthy", they continue to read on the prior art of record in his opinion. But, having reviewed the case again along with the arguments just presented, the examiner believes the following amendment(s) may provide a more favorable outcome:

a. Amend claim 1 with claims 4, 11, 12, 13 and 14.
b. Amend claim 1 with claims 4, 11, 12, 13 and 15.
c. Amend claim 6 with claims 9, 16, 17, 18, 19
d. Amend claim 6 with claims 9, 16, 17, 18, 21.

These amendments would, in the examiner's opinion, ensure that the claims do not read on the prior cited.

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